

**BOARD OF EQUALIZATION****PROPERTY TAX COMMITTEE MEETING MINUTES**

HONORABLE KATHLEEN CONNELL, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

NOVEMBER 17, 1999

ACTION ITEMS**Agenda Item 1: Property Tax Rule 153, Liquefied Petroleum Gas Tanks****Issue**

Should the Board authorize publication of proposed Property Tax Rule 153 (Proposed Section 153, Title 18, of the California Code of Regulations)?

Committee Discussion

Board staff recommended adoption of a new rule pertaining to liquefied petroleum gas tanks. The California Assessors' Association (CAA), not in attendance, opposed the adoption of a new rule. Industry representatives supported a new rule, but offered alternative language to that proposed by staff. Industry and Board staff proposed modified versions that were presented to the Committee after distribution of the issue papers. The Committee used the modified versions to make its recommendations.

Staff's version included the following language in subdivision (b) that was opposed by Industry: "or maintenance fees or charges, rent, or any other separately stated periodic charge for the LPG tank." Industry also opposed the reference to Rule 10 in subdivision (d). As an alternative, Industry proposed a reference to Rule 10(b) which was included in their modified version.

Committee Action/Recommendation

The Committee voted to recommend that the Board adopt Rule 153 as a new rule, and recommended that the following subdivisions from Industry's and Board staff's modified versions be adopted:

- (1) For subdivision (a), adopt Industry's modified version.
- (2) For subdivision (b), adopt staff's modified version with the exception that "on" replace "for" following "periodic charge."
- (3) For subdivision (c), adopt staff's modified version.
- (4) For subdivision (d), adopt Industry's modified version with the exception that reference to Rule 10(b) be replaced with a reference to Rule 10 with language that excludes the application of "loaned" property and tax "situs" of property as factors in valuing LPG tanks.

A copy of proposed Rule 153 that reflects the Committee's recommendations is attached.

Agenda Item 2: Property Tax Rule 10, Trade Level for Tangible Personal Property

Issue

Should the Board authorize publication of proposed amendments to Title 18, of the California Code of Regulations, Property Tax Rule 10?

Committee Discussion

Board staff recommended adoption of a revised Rule 10 that includes deletion of reference to inventory and addition of other text agreed to by all interested parties. Board staff also recommended that the title of the rule be changed and a sentence added in subdivision (a) to clarify that the rule pertains to fixtures as well as personal property. Staff proposed a modified version of Rule 10 in response to language proposed by Industry that was submitted after distribution of the issue papers. The Committee used staff's modified version to make its recommendations.

Industry opposed staff's inclusion of fixtures in Rule 10. Industry argued that the rule does not apply to fixtures. They argued that their position is consistent with history and recently adopted *Assessors' Handbook* sections. Industry's Rule 10 issue paper draft included the term "non-property items" as an additional trade level adjustment. Staff's modified version, presented to the Committee after distribution of the issue papers, included language that addressed industry's concern regarding the assessment of non-property items. Therefore, Industry did not argue for the inclusion of the term "non-property items."

Committee Action/Recommendation

The Committee voted to recommend that the Board adopt staff's modified version of Rule 10 with the following exceptions:

- (1) Do not adopt staff's proposed change to the title of the rule. The title of Rule 10 will continue to be "Trade Level for Tangible Personal Property."
- (2) Do not adopt staff's proposed language in subdivision (a) that states "Trade level adjustments shall also be considered when appraising personal property affixed to real property."

A copy of Rule 10 that reflects the Committee's recommendations is attached.

Agenda Item 3: Property Tax Rule 124, Examples

Issue

Should the Board authorize publication of amendments to Title 18, California Code of Regulations, Property Tax Rule 124?

Committee Discussion

Board staff recommended no change to the current rule. Industry representatives stated that their concerns were addressed in the adoption of Rule 153, therefore no change was necessary.

Committee Action/Recommendation

The Committee voted to recommend that the Board adopt staff's recommendation not to delete text from Rule 124.

Agenda Item 4: Proposed Changes to the Unitary Valuation Methods Book

Issue

Should staff proposals for change to the *Unitary Valuation Methods* book for the 2000 lien date be implemented?

Committee Discussion

Committee Chair Connell asked the Members to remove for discussion specific items on the *Issues for Board Decision* matrix (Attachment 1 of Issue Paper No. 99-049). The following items were pulled for discussion: Items 1, 3, 4, 10, 20, and 24. The Committee voted on the remaining items as consent in a single motion.

Representatives of Industry, a representative of the counties, and Board staff presented their views to the Committee on the proposed changes to the *Unitary Valuation Methods* book. Industry representatives stated their support for the staff proposals except Items 4, 10, and 20, and presented their positions on these three items. The counties' representative expressed concerns regarding the staff proposal on Items 1, 3, and 24. Staff explained to the Committee the procedural effect if the Industry position on Item 20 (not calculating the Stock and Debt value indicators) were adopted.

Committee Action/Recommendation

The Committee voted to recommend that the Board approve that the proposals and changes listed in the "Staff Proposal" column of Attachment 1 (Issue Paper No. 99-049) be made to the *Unitary*

Valuation Methods book for the 2000 lien date except the following three items as amended below:

- Item 4. Adopt the Industry Position—Unitary possessory interest land parcels should be valued by capitalizing economic rent using a capitalization rate that includes a component for income taxes.
- Item 10. Accept the staff proposal and add language to the *Unitary Valuation Methods* book to state specific situations where the limited life CEA model under the level annuity concept is to be used.
- Item 20. Direct that staff (1) remove the Stock & Debt Model section from the *Unitary Valuation Methods* book; (2) continue to request Stock & Debt information from state assessees as part of the Property Statement; and (3) to calculate Stock and Debt value indicators only if requested by a Board Member.

Approved: /s/ Marcy Jo Mandel for
Kathleen Connell, Committee Chair

/s/ Richard C. Johnson for
E. L. Sorensen, Jr., Executive Director

BOARD APPROVED

at the 11-19-99 Board Meeting

/s/ Janice Masterton
Janice Masterton, Chief
Board Proceedings Division

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4 **Rule 153. LIQUEFIED PETROLEUM GAS TANKS**
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7 (a) Definition. For purposes of this regulation, the term "liquefied petroleum gas tank"
8 (LPG tank) means and includes a tank used as a means of storage, delivery, or transfer of
9 liquefied petroleum gas products. The term also includes related equipment, apparatus,
10 gauges and meters, attached to or installed on the tank.
11

12 (b) An LPG tank shall be considered leased or rented if the purchaser of the liquefied
13 petroleum gas is required to pay: (1) sales or use tax measured by the purchase price or a
14 separately stated lease or rental price of the tank; or (2) installation fees or charges,
15 maintenance fees or charges, rent, or any other separately stated periodic charge on the
16 LPG tank.
17

18 (c) The ultimate consumer of an LPG tank is determined as follows:
19

20 (1) A lessee or renter of an LPG tank, as defined in subdivision (b), is the ultimate
21 consumer of the tank for the purposes of this regulation if the property is leased
22 or rented for an extended but unspecified period or for a term of more than six
23 months.
24

25 (2) The owner of the LPG tank is the ultimate consumer of the tank for purposes of
26 this regulation if the property is leased or rented, as defined in subdivision (b),
27 for a period of six months or less.
28

29 (3) The owner of the LPG tank is the ultimate consumer of the tank if: (i) the LPG
30 tank is not considered leased or rented pursuant to subdivision (b) of this
31 regulation; and, (ii) the LPG tank is not considered exempt business inventory in
32 accordance with regulation 133.
33

34 (d) LPG tanks shall be valued in the hands of the ultimate consumer as defined in
35 subdivision (c) of this regulation, and in accordance with regulations 4, 6, 8, and 10;
36 provided, however, that in applying regulation 10, the term "loaned" in reference to
37 tanks and references to the tax situs in subdivisions (c) and (d) shall not be factors in
38 valuing the LPG tanks.
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4 **Rule 10 TRADE LEVEL FOR TANGIBLE PERSONAL PROPERTY**

5
6 *References:* Chapter 147, Statutes of 1966, First Extraordinary Session.
7 Sections 110, 401, Revenue and Taxation Code.
8

9 (a) In appraising tangible personal property, the assessor shall give recognition to the trade level
10 at which the property is situated and to the principle that property normally increases in value as
11 it progresses through production and distribution channels. Such property normally attains its
12 maximum value as it reaches the consumer level. Accordingly, tangible personal property shall
13 be valued by procedures that are consistent with the general policies set forth herein.
14

15 ~~(b) Tangible personal property in the hands of a primary producer which is produce of the soil~~
16 ~~and for which there are regular markets established by the buyers of the property, such as~~
17 ~~petroleum and other minerals, logs, livestock, and other farm products, shall be valued at the~~
18 ~~price offered by the buyers less the unincurred cost of preparing the property for market and of~~
19 ~~moving the property to the market place at which such price is applicable, or plus the cost of~~
20 ~~moving the goods from that market place to the place at which they are to be processed if the~~
21 ~~latter location is the tax situs.~~
22

23 (b) Except as provided by the following subdivisions, tangible personal property held by a
24 consumer shall be valued at the amount of cash or its equivalent for which the property would
25 transfer to a consumer of like property at the same trade level if exposed for sale on the open
26 market. This value shall be estimated in accordance with regulations 4, 6, and 8. If a cost
27 approach is employed, the cost shall include the full economic cost of placing the property in
28 service. Full economic cost (i.e., replacement or reproduction cost), includes costs typically
29 incurred in bringing the property to a finished state, including labor and materials, freight or
30 shipping cost, installation costs, sales or use taxes, and additions for market supported
31 entrepreneurial services (with appropriate allowances for trade, quantity, or cash discounts).—Full
32 economic cost does not include extended service plans or extended warranties, supplies, or other
33 assets or business services that may have been included in a purchase contract.
34

35 ~~(c) Tangible personal property in the hands of a manufacturer who holds it for processing or for~~
36 ~~sale shall be valued at the amount for which it would transfer to other manufacturers of like~~
37 ~~property. This value shall be estimated (1) by reference to the cost of the property in its~~
38 ~~condition on the lien date or (2) by reference to the cash price at which the manufacturer is~~
39 ~~expected to sell the property less costs yet to be incurred and experienced gross profits. When~~
40 ~~the cost approach is used, there shall be added to the cost of raw materials all other direct costs~~
41 ~~and manufacturing burden, including depreciation and property taxes, but excluding selling and~~
42 ~~general administrative costs. Unprocessed raw material cost is the cost of replacement on the~~
43 ~~lien date as evidenced by recent purchases by the assessee or other recent market transactions.~~
44

45 (c) Tangible personal property leased, rented, or loaned for a period of six months or less, having
46 a tax situs at the place where the lessor normally keeps the property as provided in regulation
47 204, shall be valued at the amount of cash or its equivalent for which it would transfer to other
48 lessors or retailers of like property. The value may be estimated by reference to the price at

1 which the lessor could be expected to sell the property at fair market value to other lessors or
2 retailers of like property. If that price is unknown, then the value may be estimated by reference
3 to one or more of the following indicators of value: (1) the lessor's full economic cost of the
4 property with a reasonable allowance for depreciation; (2) the cost indicated in subdivision (e) if
5 the lessor is also the manufacturer; or (3) in accordance with subdivision (b).

6
7 ~~(d) Tangible personal property in the hands of a retail merchant who holds it for sale, lease, or~~
8 ~~rental shall be valued at the amount for which it would transfer to other retailers of like property;~~
9 ~~and tangible personal property in the hands of a wholesale merchant who holds it for sale, lease,~~
10 ~~or rental shall be valued at the amount for which it would transfer to other wholesalers of like~~
11 ~~property. This value shall be estimated (1) by reference to the property's cost to the merchant,~~
12 ~~including freight in and deducting trade, quantity, and cash discounts, with reasonable allowance~~
13 ~~based on proper substantiation for damaged, shopworn, out of style, used, or overage stock, or~~
14 ~~(2) by reference to the price at which the merchant is expected to sell the property less his~~
15 ~~experienced gross profit.~~

16
17 (d) Tangible personal property leased, rented, or loaned for an extended but unspecified period or
18 leased for a term of more than six months, having tax situs at the lessee's situs as provided in
19 regulation 204, shall be valued by estimating the cash price or its equivalent for which the
20 property could be sold at fair market value to an outside customer operating at the same level of
21 trade as the lessee. If that price is unknown, then the value may be estimated by reference to one
22 or more of the following indicators of value: (1) the lessee's full economic cost of the property
23 with a reasonable allowance for depreciation, or (2) in accordance with subdivision (b).

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25
26 ~~(e) Tangible personal property in the hands of a person who holds it for consumption shall be~~
27 ~~valued in accordance with sections 4, 6, and 8 of this subchapter. When, however, such property~~
28 ~~is leased or rented for a period of less than six months so that its tax situs, as provided in section~~
29 ~~204 of this chapter is at the place where the lessor normally keeps the property, it shall be valued~~
30 ~~in accordance with the last sentence of subdivision (d).~~

31
32 (e) Tangible personal property acquired from internal sources for self-consumption or use, shall
33 be valued by estimating the cash price or its equivalent for which the property could be sold at
34 fair market value to an outside customer using the property at the same trade level, (with
35 appropriate allowances for trade, quantity, or cash discounts). If that price is unknown, then the
36 value may be estimated by reference to one or more of the following indicators of value: (1) the
37 cost of the property in its condition and location on the lien date, had it been acquired at fair
38 market value from an outside supplier (including labor, materials, overhead, interdivisional
39 and/or intercompany profits, interest on borrowed or owner supplied funds, sales or use tax,
40 installation, and other costs incurred in bringing the property to a finished state, with appropriate
41 allowances for trade, quantity, or cash discounts, and depreciation), or (2) in accordance with
42 subdivision (b). The cost of the property in its condition and location on the lien date, had it
43 been acquired at fair market value from an outside supplier, does not include extended service
44 plans or extended warranties, supplies, other assets or business services. The quantity discount
45 allowed a manufacturer, when it is its own largest customer, should be at least as large as that
46 allowed its largest wholesale or retail customer.

1 ~~(f) When tangible personal property is in the hands of a person engaged in two or more of the~~
2 ~~functions of producer, manufacturer or processor, wholesaler, retailer, or consumer, the level of~~
3 ~~trade at which the property is held shall be determined by reference to its form, location,~~
4 ~~quantity, acquisition source, and probable purchasers or lessees. A person is operating at two or~~
5 ~~more levels when the property consists of raw materials, semi-manufacturers, or finished goods~~
6 ~~which were acquired from sources within a business entity (other than component parts meeting~~
7 ~~the tests of the following sentence) and the property is held (1) for consumption by the business~~
8 ~~entity or (2) for processing and/or marketing in competition with similar products marketed by~~
9 ~~other business entities that have purchased like raw materials, semi-manufacturers, or finished~~
10 ~~goods at the same stage of production from external sources. Component parts held at the~~
11 ~~manufacturing processing level, however, shall not be considered to be at a higher level than that~~
12 ~~at which they are manufactured when they have been manufactured by a business entity~~
13 ~~specifically and exclusively for (1) incorporation by the entity in its finished product, (2)~~
14 ~~marketing as replacement parts for its finished product, or (3) both.~~

15
16 ~~When it is concluded that the person holding tangible personal property is operating at more than~~
17 ~~one trade level, property at the higher trade level or levels acquired from internal sources shall be~~
18 ~~valued (1) by estimating what the property, in its condition and location on the lien date, would~~
19 ~~have cost had it been acquired in an arm's length transaction from an outside supplier, (2) by~~
20 ~~reference to the cash price at which the property could be sold in an arm's length transaction to~~
21 ~~an outside customer less a reasonable gross profit, or (3) if held at the consumer level, in~~
22 ~~accordance with subdivision (e).~~

23
24 ~~(g) Storage of tangible personal property in a warehouse, in and of itself, does not alter the trade~~
25 ~~level. The trade level of such property will be determined in accordance with subdivision (f).~~

26
27 (f) Tangible personal property in the hands of a person engaged in the function of a
28 manufacturer, wholesaler, or retailer and a consumer shall be valued by estimating the cash price
29 or its equivalent for which the property could be sold at fair market value to an outside customer
30 operating at the same level of trade. The property shall be valued based on how it is situated or
31 used on the lien date pursuant to subdivisions (b), (c), (d), and (e).
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